

Duties of Municipal Planning Boards

New Hampshire Town and City, October 2003

Q. What is the primary duty of a municipal planning board?

A. Pursuant to [RSA 674:1, I](#), “It shall be the duty of every planning board established under [RSA 673:1](#) to prepare and amend from time to time a master plan to guide the development of the municipality.” (emphasis added). A planning board must also “consult with and advise public officials and agencies, public utility companies, civic, educational, professional, research and other organizations, and ... consult with citizens, for the purposes of protecting or carrying out of the master plan as well as for making recommendations relating to the development of the municipality.” [RSA 674:1, II](#). Other duties of the planning board are as authorized by the local legislative body (i.e., town meeting, town council or city council).

Q. Planning boards deal with subdivision applications and site plan applications. What about those functions?

A. Those are, of course, important functions, but they are considered special grants of authority. The general function of a planning board is to prepare a master plan for the development of the municipality and to investigate, advise and recommend programs for the development of the community and construction of municipal improvements. *Kostreles v. Portsmouth*, 104 N.H. 392, 397 (1963); see [RSA 674:1, II](#).

Q. But can the planning board rely directly upon the master plan in rendering a decision on an application, for example, if it wants to limit the size of a subdivision?

A. No, that is not the purpose of the master plan. Pursuant to [RSA 674:2](#), the purpose of the master plan is “to set down as clearly and practically as possible the best and most appropriate future development of the area under the jurisdiction of the planning board, to aid the board in designing ordinances that result in preserving and enhancing the unique quality of life and culture of New Hampshire and to guide the board in the performance of its other duties in a manner that achieves the principles of smart growth, sound planning, and wise resource protection.” But a duly adopted and updated master plan is a necessary precursor to the adoption of a capital improvement program (when authorized by the local legislative body). [RSA 674:5](#). After the capital improvement program has been adopted, the local legislative body may develop ordinances to control growth. [RSA 674:22](#). The planning board should not attempt to control growth in the absence of a growth management ordinance.

Q. Would it not be easier to guide the development of the municipality using our subdivision and site plan authority on a case-by-case basis?

A. No. In fact, in [Ettlingen Homes v. Town of Derry](#), 141 N.H. 296 (1996), the New Hampshire Supreme Court specifically held that a planning board cannot use its subdivision regulations as a means to control growth. Many developers will voluntarily agree to develop property in phases, but in the absence of a duly adopted growth ordinance they cannot be compelled to do so.

Q. So, what is the best course of action when confronted with growth and development?

A. Get back to basics. Read [RSAs 674:1](#) through [674:2](#). Review and update the master plan. In the course of doing so, hold hearings on what the vision should be for the community. Get input

from civic leaders, educational leaders, public officials, utility companies, and citizens. Be sure to look outside the boundaries of the community. Seek authority to adopt a capital improvement program. Once these things are in place, it will be much easier to analyze whether a growth ordinance or impact fee ordinance is necessary and what the ordinance must look like. Finally, even if the local legislative body has not specifically authorized the planning board to develop a capital improvement program, the planning board may still make recommendations for the development of the municipality and municipal improvements.